

**ADLER & ASSOCIATES**

P.O. BOX 710509  
HOUSTON, TEXAS 77271-0509

WRITER'S DIRECT DIAL  
(713)-270-5391  
WRITER'S DIRECT FACS.  
(713)- 270-5361  
E. MAIL: BADLER1@houston.rr.com

INTELLECTUAL PROPERTY LAW  
(PATENT, BIOTECHNOLOGY, COMPUTER,  
TRADEMARK & TRADE SECRET LAW)

January 16, 2002

**FACSIMILE COVER SHEET**

**PLEASE DELIVER TO:** Ex. J. Zara

**COMPANY:** Group Art Unit 1635, USPTO

**FACSIMILE NUMBER:** 703/305-7939

**NUMBER OF PAGES (COUNTING COVER SHEET):** 7

**FROM:** Benjamin Aaron Adler, Ph.D., J.D./Colleen Werner

**MESSAGE:** As requested, I am attaching a Petition to Withdraw Holding of Abandonment for 09/376,774 (Our Ref.: D6087). Should you have any questions or comments, or require additional information, please call me or Dr. Adler at 713/270-5391. Thank you. Colleen Werner.

**CONFIDENTIALITY NOTICE:** Unless otherwise indicated or obvious from the nature of this transmittal, the information contained in this facsimile is attorney privileged and confidential information intended for the use of the individual or entity named above. If the reader is not the intended recipient or an employee or agent responsible for delivery, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you receive this communication in error, please immediately notify Benjamin Adler at 713/270-5391 and promptly return the facsimile. Thank you.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE****APPLICANT: Fung****FILED: August 17, 1999****SERIAL NO.: 09/376,774****FOR: Constitutive And Regulable  
Expression of Genes**§  
§  
§  
§  
§  
§  
§**ART UNIT:****1635****EXAMINER:****Zara, J.****DOCKET: D6087**

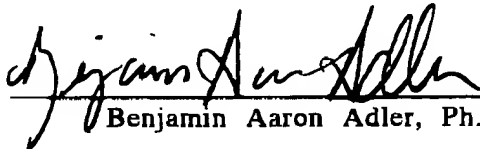
#14

The Honorable Commissioner of Patents  
Washington, DC 20231

**ATTN: Examiner Jane Zara****CERTIFICATE OF FACSIMILE TRANSMITTAL**

I hereby certify that this correspondence is being transmitted via facsimile to Ex. Jane Zara at the Patent Office at 703-305-7939 on the date indicated below:

Date:

Jan 16, 2002

Benjamin Aaron Adler, Ph.D., J.D.

**PETITION FOR WITHDRAWAL OF HOLDING OF  
ABANDONMENT UNDER 37 C.F.R. §1.181**

Dear Sir:

In response to a Notice of Abandonment mailed October 17, 2001 for the above-referenced patent application, Applicants hereby petition that said holding of abandonment be withdrawn.

The instant application was abandoned in view of Applicant's failure to timely file a proper reply to a Final Office Action mailed April 8, 2001. Applicants submit that a Supplemental Response after Final, including a Petition for a Three Month Extension of time, was filed via facsimile on September 26, 2001 after receipt of an Advisory Action

mailed on June 18, 2001. In the Supplemental Response Applicants canceled rejected claim 2; thus only allowed claim 1 remained pending in the instant application which action put the application in condition for allowance. No other requirements were outstanding for allowability. Thus, Applicants submit that claim 1 is in condition for allowance. Accordingly, Applicants petition that the holding of abandonment be withdrawn and request that claim 1 be passed to issuance.

Applicants submit herewith a copy of the Supplemental Response after Final. Applicants further believe no fees are due, however, if this is in error, please debit Deposit Account No. 07-1185 on which the undersigned is allowed to draw.

Respectfully submitted,

DATE:

1/16/02

ADLER & ASSOCIATES  
8011 Candle Lane  
Houston, Texas 77071  
713/270-5391  
BADLER1@houston.rr.com



Benjamin Aaron Adler, Ph.D., J.D.  
Counsel for Applicant  
Registration No. 35,423